

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ELLEN M STONE

Claimant

TEAM STAFFING SOLUTIONS INC

Employer

APPEAL 15A-UI-00536-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/14/14

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 9, 2015 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 5, 2015. Claimant participated. Employer participated through Sarah Fiedler, Human Resources Generalist.

ISSUE:

Was the claimant able to and available for work effective December 14, 2014?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was assigned to work at Cummins Manufacturing. On December 12 she was told that effective December 17 there would not be any more work for her until after the first of the new year. The claimant did not go to her employer, Team Staffing, to ask if they had other work for her over the two week period, she just assumed she would be given unemployment benefits since she was a temporary employee and not eligible for holiday pay. The claimant did not check with her employer to see if her assumption was correct. The claimant had ample opportunity to contact Team Staffing but did not do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as

defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(3) and (16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code § 96.4(3).

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The claimant worked for a temporary agency which may have had additional work for her with other assignments. The claimant instead chose to wait until she could return to work at Cummins Manufacturing. She did not check with them to see if more work was available for her. Under these circumstances the claimant was holding herself out for a specific assignment when additional work may have been available for her. She is not able to and available for work effective December 14, 2014. Accordingly, benefits are denied.

DECISION:

The January 9, 2015 (reference 01) decision is affirmed. The claimant is not able to work and available for work effective December 14, 2014. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/can